

**FARAD CONTINUATION SHEET.**  
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR.**

**WRIT PETITION NO.5519/2005**  
**Swaraj s/o Shibram Mukherjee**  
**...Versus...**  
**The Additional Collector, Nagpur and others**

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Office Notes, office Memoranda of Coram  
appearances, Court's orders or directions  
and Registrar's order.

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Court's or Judge's order

**CORAM: B.P. DHARMADHIKARI, J.**  
**DATED : 15.12.2005.**

1. Heard Advocate Shri Gautam Chatterjee for petitioner, Advocate Shri N.W. Sambre for respondent no.3 and learned A.G.P. for respondent nos.1 and 2.
2. Advocate Shri Chatterjee contends that because of ill health and mental incapacity the petitioner could not challenge the ex-parte

order passed by the Rent Controller deciding the fair rent, and when the present respondent no.3-landlord filed the suit for its recovery, necessity to challenge that order was realized and hence, present writ petition has been filed.

3. Advocate Shri N.W. Sambre on the other hand points out that landlord has after securing the order of Rent Controller filed the suit for recovery of amount of Rs.5,47,396/-. He states that when the present petitioner filed his earlier W.P. No.1268/2003, the landlord filed his reply and pointed out the order of Rent Controller and also the amount approximately due from present petitioner on that occasion. This Court has thereafter on 30.9.2003 passed the order and the petitioner was permitted to deposit the agreed rent before the appellate authority under clause 21 of the Rent Control Order with all arrears and parties were directed

to appear before the appellate authority on 13.10.2003. Thus, according to him the order was very much within the knowledge of petitioner.

4. After hearing the parties, I find that the ex-parte order of Rent Controller being challenged in present Writ Petition was within the knowledge of petitioner and on 30<sup>th</sup> September, 2003 in view thereof only he was directed to deposit the agreed rent. It is not in dispute that as per direction of this Court parties appeared before the appellate authority on 30.10.2003 but said appeal was in relation to clause 13 (3) of the C.P. and Berar Letting of Premises and Rent Control Order, 1949. It appears that in spite of this knowledge the petitioner has not taken any steps to challenge the order of Rent Controller deciding fair rent for more than two years.

5. In this background, I am not inclined to interfere in writ jurisdiction in the matter. Writ Petition is accordingly dismissed. No costs.

JUDGE

SSW